

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERNEST DAVIS,

Plaintiff,

v.

CASE NO. 10-12178
HONORABLE MARIANNE O. BATTANI

PATRICIA CARUSO, *et al.*,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION
AND TO BE HEARD ON HIS AMENDED COMPLAINT**

On June 2, 2010, plaintiff Ernest Davis filed a pro se complaint under 42 U.S.C. § 1983 and related statutes. The complaint alleged that the defendants seized Plaintiff's legal documents and impaired his ability to pursue a lawsuit in the United States Court of Claims. The Court granted Plaintiff leave to proceed without prepayment of the filing fee because he was an indigent prisoner, and on September 23, 2010, the Court summarily dismissed the complaint pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b). The Court held that the complaint lacked an arguable basis in law and failed to state a claim for which relief may be granted.

Pending before the Court is Plaintiff's motion for reconsideration and to be heard on his proposed amended complaint. Plaintiff claims that his proposed amended complaint is not frivolous and it would allow him to be heard on his claims in an appropriate manner without posing a burden on the defendants if accepted and filed.

The United States Court of Appeals for the Sixth Circuit has held that federal

district courts may not permit indigent prisoners to amend their complaints to avoid sua sponte dismissal of a complaint. Benson v. O'Brian, 179 F.3d 1014, 1016 (6th Cir. 1999); McGore v. Wrigglesworth, 114 F.3d 601, 612 (6th Cir. 1997). Therefore, Plaintiff has no right to amend his complaint or for reconsideration. His motion for reconsideration and to be heard on his amended complaint [Dkt. #14] is **DENIED**.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

Dated: April 12, 2011

CERTIFICATE OF SERVICE

I hereby certify that on the above date a copy of this Order was served upon the Plaintiff, Ernest Davis via ordinary U.S. Mail.

s/Bernadette M. Thebolt
Case Manager